

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

TUESDAY, THE 29TH MAY 2007 / 8TH JYAISHTA 1929

WP(C).No. 6176 of 2007(I)

PETITIONERS:

- 1. M.FAZILUDEEN, UNIT CONVENER, INTUC,
PALLITHERUVU UNIT, POONTHURA P.O.,
THIRUVANANTHAPURAM-695 026.**
- 2. M.K.SUDHEER, UNIT CONVENER, CITU,
PALLITHERUVU UNIT, POONTHURA P.O.,
THIRUVANANTHAPURAM-695 026.**
- 3. ZAKIR HUSSAIN, UNIT CONVENER,
AITUC, PALLITHERUVU UNIT, POONTHURA P.O.,
THIRUVANANTHAPURAM-695 026.**

BY ADV. SRI.ANIL K.NARENDRAN

RESPONDENTS:

- 1. THE APPELLATE AUTHORITY & REGIONAL
JOINT LABOUR COMMISSIONER, KOLLAM.**
- 2. CONVENER, AITUC,
AMMACHIMUKKU (PARUTHIKUZHI UNIT),
POONTHURA P.O., THIRUVANANTHAPURAM-695 026.**

BY ADV. SRI.THOMAS M.JACOB

SRI.G.RAJAGOPAL

BY GOVERNMENT PLEADER SRI. BENJAMIN PAUL

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 29/05/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS:

- EXT.P1: COPY OF ORDER DTD. 27/02/2004 OF THE DISTRICT LABOUR OFFICER, THIRUVANANTHAPURAM.**
- EXT.P2: COPY OF MEMORANDUM OF APPEAL DTD. 24/03/2004 FILED BY THE PETITIONERS BEFORE THE 1ST RESPONDENT.**
- EXT.P3: COPY OF STAY PETITION DTD. 24/03/2004 FILED BY THE PETITIONERS BEFORE THE 1ST RESPONDENT.**
- EXT.P4: COPY OF ORDER OF STAY DTD. NIL GRANTED ON 31/03/2004 IN K.HL.W.A. NO.5 OF 2004, BY THE 1ST RESPONDENT.**
- EXT.P5: COPY OF ORDER DTD. 29/07/2006 OF THE 1ST RESPONDENT VACATING EXHIBIT P4 ORDER OF STAY.**
- EXT.P6: COPY OF ENVELOPE IN WHICH EXHIBIT P5 ORDER WAS SERVED ON THE 2ND PETITIONER.**

/TRUE COPY/

KSS

THOTTATHIL B.RADHAKRISHNAN, J

W.P(C).No.6176 OF 2007

Dated this the 23rd day of February, 2007

O R D E R

Urgent notice.

2. Ext.P4 interim order was issued by the appellate authority after considering the matter. That order was issued sometime in 2004. Thereafter, the appeal ought to have been taken up and disposed of. Instead, the impugned order has been issued on 29.7.2006 by merely stating that “series of hearing were conducted and both parties were given sufficient opportunities to present the case”. The officer who issued Ext.P5 does not find any valid reason at present to vacate the said order. An order of stay is a statutory order. The continuance of such an order does not depend upon the ipse dixit of any officer. When a statutory order of stay has been granted and when the authority feels that the said order requires to be vacated at a later point of time pending consideration of the appeal, cogent reasons should be

stated for such recalling. Under such circumstances, I am inclined to grant an order of stay of Ext.P5 order, ex parte.

3. In the result, there will be an interim order staying the operation of Ext.P5 for a period of three months. The appellate authority may, in the mean while, if so advised, take up and finally dispose of the appeal in relation to which Ext.P5 has been passed. It is clarified that this order does not bar the final disposal of the appeal. Needless to say that Ext.P5 being stayed, Ext.P4 will survive and will govern the parties for the aforesaid period.

H/o.

THOTTATHIL B.RADHAKRISHNAN
Judge

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